

April 13, 1915.

Mr. A. B. Ballantyne,

Provo, Utah.

Dear Sir:

Following your suggestion in our recent conference, I am enclosing to you herewith two court decrees, which have heretofore been made, distributing the waters of Provo River among the several claimants thereto. The earlier of these two decrees is marked "Horse Decree", and was given about 1902. The later of the two decrees is marked "Chidester Decree", and was given about 1907.

The Horse Decree makes specific division of the water at several stages below 250 cubic feet per second and at 250 cubic feet per second. The Chidester Decree makes no specific division of the water except that all the primary rights are covered by a total volume of 17,467 cubic feet per minute; approximately 291 cubic feet per second.

Neither the Horse or the Chidester Decrees make any distribution of the water of Provo River except in Utah County and a small fraction of Wasatch County, located in the immediate vicinity of the Wright Ranch west of Charleston.

No decree covers the use of the water between the Wright Ranch and the Wasatch dam, a distance of some nine miles, having many diversions for use from the stream. The maximum diversions in this section approximating more than 150 cubic feet of water per second; the irrigated area being something like 4,000 acres.

From the Wasatch dam to the head of the river, the right to the use of the waters of Provo River have been adjudicated about the year 1899; this decree of the upper river being commonly known as the "Fulton Decree."

About the year 1909 the Provo Reservoir Company began its operations on Provo River. In the course of time it has

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constructed a set of storage reservoirs at the cost of some \$50,000.00 and has built a canal system costing something like \$200,000.00 more. It is now irrigating more than 1,000 acres of land.

The Provo Reservoir Company about one year ago brought suit in the District Court of Utah County, to define its rights and the rights of all the other claimants to the use of the waters of Provo River. Unlike the other litigations on this system, every water user from the head of the river to Utah Lake is made a party. This is the first litigation that has been made on the basis of the physical and legal unity of the stream from its head waters to its mouth.

The litigants in this new water litigation on the Provo River, "Provo Reservoir Company, plaintiff, versus Provo City et al, defendant", met by order of the Court on March 26, 1915; listened to the report of the Water Commissioner appointed for the preceding year; agreed to a stipulation, a copy of which is enclosed herewith, which stipulation is to control the distribution of the waters of Provo River for the season of 1915, and further agreed that T. F. Wentz should be the Court Commissioner to enforce the provisions of the stipulation.

The Morse and Chidester Decrees in Utah County in some instances distribute quantities of water to prior appropriators that seem at least on superficial examination, to be excessive. In my report for 1914, I have so reported to the Court and urgently recommended modifications of the quantities distributed under these old judgments more in accordance with modern, economic irrigation practice.

Unfortunately as I view the matter, neither the Court nor the litigants saw fit to adopt the suggestions from my report.

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They did, however, lodge a discretion with the Court Commissioner which practically enforces a reasonable and economic use of the water. (See paragraph 7-8 of the stipulation referred to above.) There has not been, at least there is not available to the Court Commissioner, any data concerning the duty of water which has been derived from irrigation observations on any of the area served by the waters of Provo River.

✓ You probably recognize, even if you are not aware it is a fact, that observations even in so near and related an area as the Mapleton Bench have been refused recognition as applying to water duty in the area irrigated from Provo River. Such being the case, it is almost paramount necessity to have some duty of water investigations on the lands irrigated from the Provo River, to have those investigations begun as early as possible and to have them carried through systematically, probably on a limited number of fields for the complete irrigation season, in order to meet properly the demands that will doubtless be made on the discretionary authority of the water commissioner, and further to give the Court a set of unbiased data when the final judgment in this case is made. (I might say that the case is set for trial November 1, 1915.)

Personally and professionally, I am satisfied that some such authority as you represent could best undertake such an investigation as is suggested. If in the course of the irrigation season of 1915 it became necessary or desirable for me to exercise my discretion in limiting the quantity of water given to an appropriator, I would follow your findings in the exercise of that discretion.

I believe that this situation on Provo River which involves the beneficial use of the water on an area of some 40,000 acres of land, offers an opportunity for the agricultural college and the officers of Utah, Wasatch and Summit Counties, to do a great

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public service. In my judgment, with a favorable attitude from you personally and the other state and government interests that you represent, we shall be able to work out a co-operative basis for^{the} doing of the work that is necessary in this matter. If I might hear from you with reference to the assistance you and the bureaus you represent would give in supervision and financial assistance and what would be expected from the litigants on the Provo River, I think I should be able on presentation of the matter to the Court to bring the business to a favorable issue.

Yours respectfully,
